

**CITY OF ROCKVILLE
COMMUNITY PLANNING & DEVELOPMENT SERVICES DEPARTMENT
STAFF REPORT**

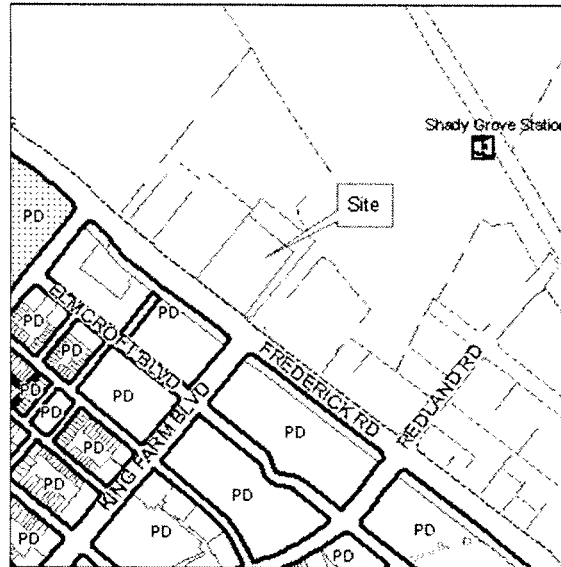
TO: Planning Commission

FROM: Jim Wasilak, AICP,
Chief of Planning
Bobby Ray, AICP,
Principal Planner

PLANNER: Jeremy Hurlbutt, AICP,
Planner III

DATE: June 1, 2011

SUBJECT: Annexation Petition
ANX2010-00139



RECOMMENDATION:

Recommend to the Mayor and Council approval of the annexation plan (see Attachment #1) and the proposed MXTD (Mixed-Use Transit District) zoning.

PROCESS:

The subject petition has been submitted in accordance with provisions of Article 23A. 9 (c) of the Annotated Code of Maryland, which specifies procedures for annexation to a municipal corporation. This law requires the Mayor and Council to introduce a resolution to propose annexation upon being petitioned to do so. Such a resolution was introduced on May 9, 2011 (See Attachment #2), and the Mayor and Council have scheduled a public hearing for August 1, 2011 (See Attachment #3). The Mayor and Council are also required to conduct a public hearing simultaneously for the adoption of a new zoning classification and the enlargement of the corporate boundaries.

The new zoning classification will assign to the property to the MXTD zone and the requirements, standards of that zone. Approval of the zoning classification does not approve any development. The proposed residential redevelopment of the property will require the applicant to file a site plan application and obtain permits from all City department as may be necessary. The proposed project would be processed as a level 3, site plan application, and would require

approval from the Planning Commission. Any redevelopment or changes in use would require an approved site plan. As with any other site in the City the Chief of Planning would be able to approve minor amendments and level 1 site plans as allowed in the code. An example of level 1, site plan would be if the applicant changed the use of the existing building from motor vehicle sales to retail or a minor addition to the existing building.

Prior to Mayor and Council's public hearing, the Planning Commission is required to study the subject area and transmit to the Mayor and Council its recommendation as to the appropriate zoning classification and on the proposed Annexation Plan (See Attachment #1). The Rockville Zoning Ordinance requires that the Planning Commission submit a final report to the Mayor and Council after conducting a public hearing.

REQUEST:

The petitioners request annexation into the City of Rockville of an area consisting of 4.37 acres, made up of two parcels of land (See Attachment #4). The two parcels are identified as Parcel A of Reeds Addition to Derwood subdivision and the other is a deeded lot identified on Tax Map GS 12 and as parcel P-137. This annexation petition area is adjacent and contiguous to the City of Rockville.

The property is located at 15955 Frederick Road which is located in the northwest corner of the intersection of King Farm Boulevard/WMATA Access Road and Frederick Road/MD 355. The land is owned by Mary J. Gartner, Trustee and Reed Brothers, Inc. The site is mostly paved with an existing auto dealership building on the property used for automobile sales and repair. The petitioner requests that the Mayor and Council classify the property to be zoned as MXTD (Mixed-Use Transit District) upon annexation, to allow development of a 417-unit apartment complex with retail.

PROJECT / SITE INFORMATION:

Location: Northwest corner of the intersection of King Farm Boulevard/WMATA access road and Frederick Road/ MD 355.
15955 Frederick Road

Applicant: Silverwood/Shady Grove, LLC
c/o Silverwood Investments, Inc.
1925 Isaac Newton Square East, Suite 110

Reston, Virginia 20190

Existing Use: Motor Vehicle Sales
 Land Use Designation: Mixed Use
 Zoning District: TOMX-2, Transit Oriented Mixed Use – Medium Density (County)
 Parcel Area: 4.37 Acres
 Subdivision: Reeds Addition to Derwood
 Dwelling Units: 417 multi-family units proposed
 Building Floor Area: Up to 5,000 square feet of non-residential proposed
 Parking: 5.5 level, 544 space, parking structure proposed

Surrounding Land Use and Zoning			
Location	Zoning	Planned Land Use	Existing Use
North	I-L, Light Industrial & TOMX-2/TDR, Transit Oriented Mixed Use/ Transferable Development Rights (County)	Mixed Use	County Transfer Station, Metro Station
East	TOMX-2, Transit Oriented Mixed Use & TOMX-2/TDR, Transit Oriented Mixed Use/ Transferable Development Rights (County)	Mixed Use	Motor vehicle sales
South	PD-KF, Planned Development -King Farm	Mixed Use	Multi-Family Residential
West	PD-KF, Planned Development -King Farm	Mixed Use	Self-Storage Warehouse

ANALYSIS:

The project site is within seven-tenths of a mile of the Shady Grove Metro Station entrance. The existing zoning is TOMX-2 (Transit Oriented Mixed Use) within the County, and the applicant is requesting that the zoning of the annexed property be classified as MXTD (Mixed Use Transit District). Both zoning districts are intended to provide a mixture of uses near transit. The applicant intends to develop the property with 417 multi-family units and 544 structured parking spaces.

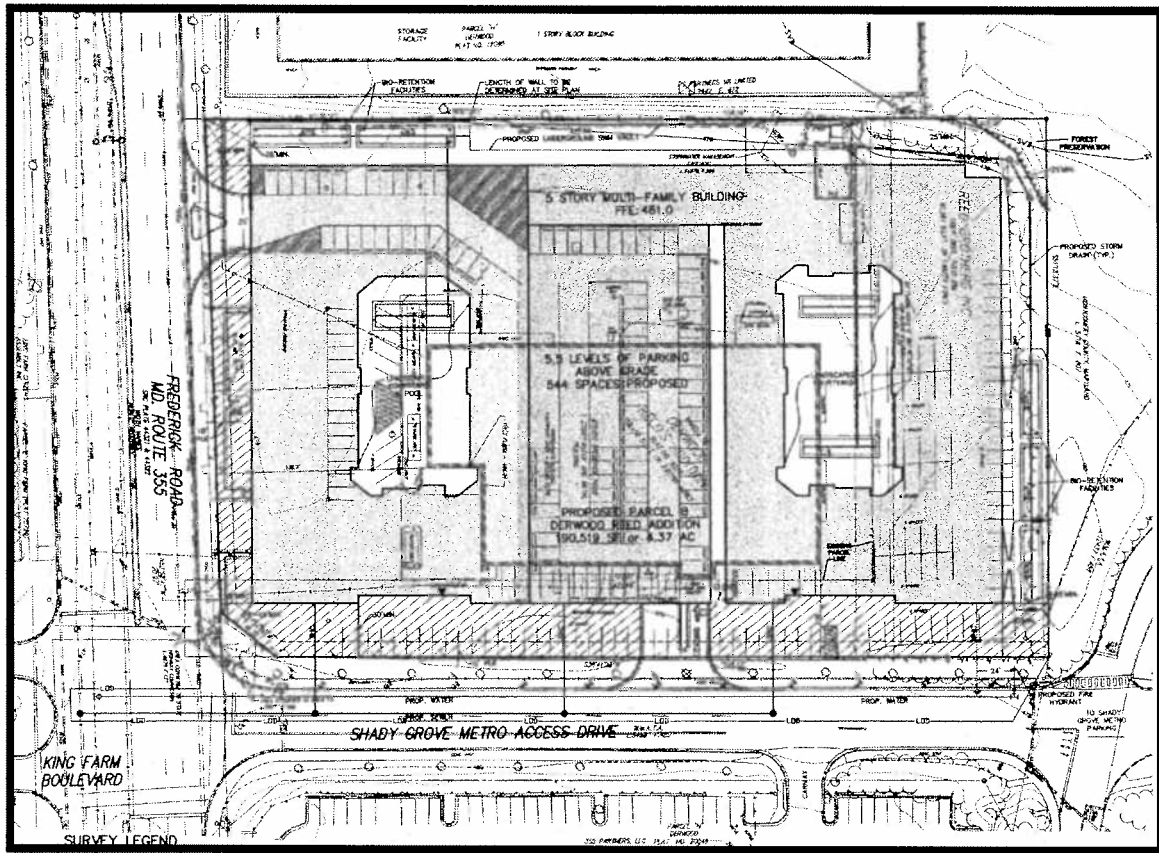


Figure 1: Proposed Site Plan

Existing Conditions:

The property is surrounded by properties with the County's I-L, TOMX-2, and TOMX-2/TDR zoning designations. The properties to the north are a self-storage use and the County's recycling center. The recycling center is part of the larger County Solid Waste Transfer Station, which is zoned industrial. The property is adjacent to the Shady Grove Metro Station to the north and east. This Washington Metropolitan Area Transit Authority (WMATA) station is the end of the line station and has a large rail yard. The rail yard is about 480 feet from the northern most point of the site. The transfer station is adjacent to the site, but the closest building is 320 feet from the property. A large wooded area separates the property from the rail yard and transfer station. To the west across MD 355 is the King Farm development and a number of multi-family buildings.

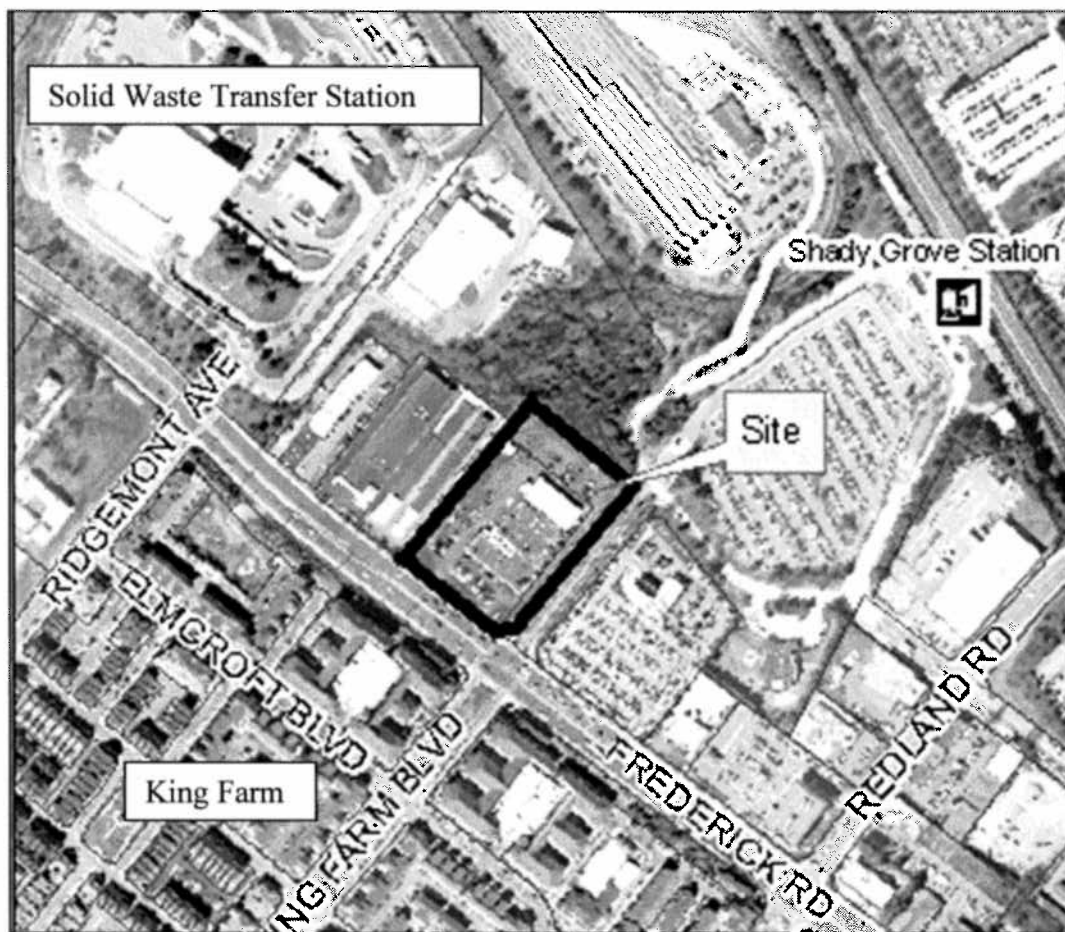


Figure 2: Aerial

Master Plan and Zoning Compliance

The property is governed by the County's Shady Grove Sector Plan. The sector plan envisions:

"The Metro Neighborhoods are envisioned as an urban village, a place that provide vitality, convenience, and human scale of development. It should become a residential mixed-use area with some office and community-serving retail uses, and recreational areas providing a focus for community life and services."

The sector plan is comprised of four areas. The property is located in the Metro West area of the four metro neighborhoods identified by the sector plan. The plan permits the highest densities on the west side of the metro station with 15 stories near the metro and stepping down to four-story edge along Redland Road and MD 355. The property has a Floor Area Ratio (FAR) of .75 and no residential uses are permitted on this property or the two property's adjacent to the northwest. The Metro West neighborhood is intended to provide a lively mix of

uses including a public square , mid- and high-rise apartment buildings, offices, a hotel, and street level retail. The orientation of office and retail uses are suggested along MD 355, as well as within all development to provide adequate mix of uses.

Chapter 3 (“Urban Growth Areas”) of the City’s Comprehensive Master Plan references the County’s 2000 Shady Grove Metro Station Area Design Charrette in describing the area around the Shady Grove Metro Station. The Recommendation from the Charrette is that

“the zoning of the area be changed to encourage mixed use development with a diversity of housing types while accommodating parking needs.”

The recommended land uses in both documents suggest rezoning the area to encourage mixed use and housing near the Metro station. However, the County’s sector plan prohibits residential use on this property. This restriction is shown on a Density Distribution Map of the sector plan area (See Attachment #5). The sector plan recommends orienting office and retail uses primarily along MD355 and Redland Road, but no other justification is given for why residential is restricted on these properties.

Zoning:

The City’s Mixed-Use Transit District (MXTD) and the County’s Transit Oriented Mixed Use (TOMX-2) are very compatible zoning classifications. Both zones are intended for areas around transit to provide a mixture of uses including housing and employment opportunities, and public use space. Both allow for medium to high density development.

The County’s Shady Grove Sector Plan restriction on residential use of the property is problematic for the City in that there are no comparable zoning districts that prohibit residential use. Upon annexation the City does not have an appropriate zoning district consistent with the County’s current residential restriction. The only district in the City that doesn’t allow residential, including live/work use is the I-H, Heavy Industrial zone. Given the recommendations for this site as expressed in the County’s Sector Plan, as well as the City’s Comprehensive Master Plan, a zoning designation of I-H would not be appropriate.

Staff recommends the MXTD designation, with the allowance for residential development and use of the property. This zoning district supports and implements the larger goals of the sector plan, and provides housing opportunity near a transit station. Given the distances of this site from the surrounding Metro rail yard (480 feet), and County transfer station (340 feet), staff feels that these uses will not have significant negative impact upon the subject property.

Both zones are intended for areas around transit to provide a mixture of uses including residential. The only restriction on residential comes from the County's sector plan. Currently there is no property within the City zoned I-H. The property can be restricted from having residential by placing it in the I-H zone, which is inconsistent with surrounding zoning. Staff recommends the property be given the MXTD zone designation.

Concurrence of the County Council will be necessary for the implementation of the MXTD district. If the County Council does not approve the MXTD zoning as proposed, State law requires that the annexed property be placed into a consistent zone for a five year period (See Attachment #6). An Annexation agreement will be drafted for review and approval by the Mayor and Council to ensure that development on the site, the recommendation of the Montgomery County Council, and the requirements of the Zoning Ordinance, are compatible.

PUBLIC OUTREACH:

An ad was posted in the Gazette on May 18, 2011, which was provided at least 15 days before this Public Hearing as required by law. Postcards (See Attachment #7) were also sent to properties within 500 feet.

CONCLUSION:

Staff recommends that the Planning Commission conduct the public hearing review and recommend approval of the attached Annexation Plan to the Mayor and Council. The impact on City resources and public facilities of annexing this property is expected to be minimal.

Additionally, for the reasons outlined in the report, staff supports the requested MXTD zoning designation. State annexation law requires that the County approve any zoning which would allow for land uses substantially different than the use currently authorized. The County's limitation on residential use of this property in their sector plan would preclude the use of the property for the use the applicant is

proposing without County Council approval. The proposed MXTD zone will insure the use of the site as the applicant intends, and is the most compatible zone to the County's TOMX-2 zone.

An Annexation agreement will be drafted for review and approval by the Mayor and Council to ensure that development on the site, the recommendation of the Montgomery County Council, and the requirements of the Zoning Ordinance, are compatible.

Attachments:

1. Annexation Plan
2. Resolution to Enlarge the Corporate Boundary
3. Resolution to Adopt the Public Hearing Date
4. Property Survey
5. Density Distribution Map
6. Article 23A of the Annotated State Code Maryland States
7. Notification Postcard

City of Rockville Department of Community Planning and Development Services
Annexation Plan
June 1, 2011

Subject: Annexation ANX2010-00139

Property Owner: Silverwood/Shady Grove, LLC
c/o Silverwood Investments, Inc.
1925 Isaac Newton Square East, Suite 110
Reston, Virginia 20190

Location of Property: Northwest corner of the intersection of MD355 and King Farm Boulevard/Shady Grove Metro access road, 15955 Frederick Road, Parcel A, Reeds Addition to Derwood; known as Reed Brothers.

Pursuant to Article 23A, Section 19(o) of the Annotated Code of Maryland, the Annexation Plan shall include a description of the land use pattern proposed for the area to be annexed; demonstrate the available land for public facilities; describe the schedule and anticipated means of financing the extension of services. Herewith is a proposed outline for extension of services and public facilities into the areas proposed to be annexed.

The area proposed for annexation is within the City's Maximum Expansion Limits, as established in the Municipal Growth Element, adopted in December 2010, of the City's Master Plan.

Land Use Patterns of Areas Proposed to be Annexed

The area of annexation is approximately 4.37 acres.

The project site is a developed site with an existing 35,096 square foot building that housed a former car dealership. The zoning is TOMX-2 (Transit Oriented Mixed Use) within Montgomery County. The applicant proposes to construct a 417 unit multi-family building with a 544 space parking structure. The applicant has requested a zoning of MXTD-Mixed Use Transit District upon annexation, which is consistent with the current zoning district (TOMX-2).

The property is governed by the County's Shady Grove Sector Plan, which restricts residential use on the property.

The property is surrounded by properties with the County's I-L, TOMX-2, and TOMX-2/TDR zoning designations. The properties to the north are a self-storage use and the County's recycling center. The recycling center is part of the larger County Solid Waste Transfer Station, which is zoned industrial. The property is adjacent to the Shady Grove Metro Station to the north and east. This Washington Metropolitan Area Transit Authority (WMATA) station is the end of the line station and has a large rail yard. The rail yard is about 480 feet from the northern most point of the site. The transfer station is adjacent to the site, but the closest building is 320 feet from the property. A large wooded area separates the property from the rail yard and transfer station. To the west across MD 355 is the King Farm development and a number of multi-family buildings.

The proposed residential use is consistent with the existing residential development across MD 335 and the County's Shady Grove Sector Plan's vision of a mixed use transit oriented development surrounding the metro station. Although the sector plan restricts the residential on the property and those to the north, the properties has adequate separation of over 300 feet from the Metro rail yard and transfer station buildings.

Adequacy of Public Facilities

Water and Sewer

The Washington Suburban Sanitary Commission (WSSC) currently provides water and sewer services to the properties within the annexation area. Service will continue to be provided by WSSC.

Roads:

The existing public roads are adequate to serve the properties' current uses within the annexation area. The site is currently improved and occupied by a 35,096 square foot auto dealership building. Additional development is proposed for the site and traffic impact will analyzed as part of the proposed Site Plan application.

Police Services:

Police protection will primarily be provided by the Rockville Police Department in conjunction with the Montgomery County Police Department. County Police

District 1 serves Rockville, though the resources of the entire County Department are available if needed.

Fire, EMS and Rescue Services:

No significant impacts on emergency services are anticipated as a result of this annexation. The Montgomery County Fire and Emergency Services (MCFRS) provides fire protection and emergency response. Rockville does not provide this service as part of municipal government. There are two fire stations in Rockville, and Station 3 serves this area, although other stations are available to supplement service (such as Stations 28 on Muncaster Mill Road in Rockville (unincorporated) and 08 on Russel Avenue in Gaithersburg).

School Services:

No impacts on Montgomery County public schools system are anticipated as a result of this annexation. The Mayor and Council are in the process of amending the Adequate Public Facilities Standards (APFS). The modification would allow the annexed properties to meet the County's requirements for school capacity, and the more restrictive City requirement. The modification would not require the City requirement to be met provided that less than ten percent of students in the school are from Rockville, and the school is outside Rockville.

Parks and Recreational/Public Libraries:

Parks and recreation facility expansion are not proposed for this annexation. Currently the closest park facilities are located in the King Farm development and included the King Farm Farmstead, Mattie J.T. Stepanek Park and King Farm Park. The County sector plan proposes a town square near the metro to be developed as part of a public/private redevelopment of the Washington Metropolitan Area Transit Authority property. The current and proposed zones have similar requirement for public use space that will be have to be met with any redevelopment. The closet library to the project is the Rockville Memorial Library at 21 Maryland Avenue.

Stormwater Management:

If annexed, all properties must pay an annual Stormwater Management Utility Fee in accordance with Section 19-36 of the Rockville City Code. The City Stormwater Management Utility Fee will replace the Water Quality Protection Charge, an annual fee assessed by the Montgomery County Department of Environmental Protection. City of Rockville properties are exempted from the Montgomery County Water Quality Protection Charge.

Impact on Sensitive Environmental Areas:

Since the site is currently developed with a car dealership, and the site mostly paved, there are no impacts to environmental resources on or immediately adjacent to the site.

Cost to the City on having to provide such services:

The City will not incur any significant increases in operational costs as result of the annexation.

Resolution No. _____

RESOLUTION: To enlarge the corporate boundaries of the City of Rockville to include 4.37372 acres of land of Reed Brothers, Inc., and Mary J. Gartner, Trustee

WHEREAS, public notice of a resolution to annex property of Reed Brothers, Inc., and Mary J. Gartner, Trustee, totaling 4.37372 acres of land, more or less, hereinafter more particularly described, has been published not fewer than two times at not less than weekly intervals in a newspaper of general circulation in the City of Rockville and the area to be annexed, said notice specifying that a public hearing would be held by the Mayor and Council on said resolution at Rockville City Hall, on August 1, 2011, at 7:00 p.m.; and

WHEREAS, the Mayor and Council conducted a public hearing on said resolution at the time and place provided for in said advertisement which hearing was not less than fifteen days after the second publication of the public notice referenced above; and

WHEREAS, an annexation plan consistent with the municipal growth element of the comprehensive plan of the City was provided to the County Executive of Montgomery County, Maryland, the Secretary of the State Department of Planning and the Chairman of the Maryland-National Capital Park and Planning Commission at least thirty days prior to the holding of the scheduled public hearing; and

WHEREAS, immediately after the first publication of the public notice in said newspaper, a copy of that public notice was provided to the County Executive of Montgomery County, Maryland, the Secretary of the State Department of Planning and the Chairman of the Maryland-National Capital Park and Planning Commission; and

WHEREAS, this matter having been considered and deliberated by the Mayor and Council of Rockville, and the Mayor and Council having decided that enactment of this resolution would promote the health, safety and welfare of the City of Rockville.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, as follows:

Section 1. That the corporate limits of the City of Rockville are hereby extended to include the following area, which is hereby added to the City.

Being the property acquired in the following two (2) conveyances; 1.) being all of the property acquired by Bonnie L. Adams et al from Mary Jane Gartner, Trustee, by deed dated January 3, 1994 and recorded in Liber 12359 at Folio 477 and being all of Parcel A, Derwood, Reed's Addition, recorded as Plat No. 9337; 2.) being part of the property acquired by Reed Brothers, Incorporated, from Virginia K. Casey a/k/a Virginia Casey Visnich and George Visnich by deed dated August 4, 1969 and recorded in Liber 3893 at Folio 289 all among the Land Records of Montgomery County, Maryland, and being more particularly described as follows:

Beginning for the same at a point marking the southwesterly corner of said Parcel A, Derwood, Reed's Addition, said point marking the common southwesterly corner of Parcel H, Derwood, recorded as Plat No. 12090 among the aforesaid Land Records and also marking the northeasterly line of Frederick Road, Maryland Route 355, as shown on State Road Commission Plat No's. 44321 and 44322; thence leaving said northeasterly line of Frederick Road and running with the common line of said Parcel H and with the property of Montgomery County, Maryland, as recorded in Liber 5718 at Folio 807 among the aforesaid Land Records

- 1.) North 38° 41' 23" East, 550.54 feet to a point; thence running with the property of said Montgomery County, Maryland, and with the property of Washington Metropolitan Area Transit Authority recorded in Liber 12437 at Folio 458 among the aforesaid Land Records
- 2.) South 51° 18' 37" East, 350.00 feet to a point; thence running with the property of Washington Metropolitan Area Transit Authority as recorded in Liber 5498 at Folio 485, the following two (2) courses and distances
- 3.) South 38° 41' 23" West, 505.57 feet to a point; thence
- 4.) South 77° 34' 46" West, 46.25 feet to a point on the aforesaid northeasterly line of Frederick Road; thence running with said northeasterly line of Frederick Road, the following three (3) courses and distances

- 5.) North 52° 52' 47" West, 20.97 feet to a point; thence
- 6.) South 38° 41' 23" West, 0.37 feet to a point; thence
- 7.) North 52° 50' 40" West, 300.11 feet to the point of beginning containing 190,519 square feet or 4.37372 acres of land.

Section 2. That all territory hereby annexed to the City of Rockville and the persons residing thereon shall, after the effective date of this resolution, be subject to the Charter, laws, ordinances and regulations of said City.

Section 3. That as soon as the annexation provided by this resolution shall become effective, the Mayor shall promptly register both the original boundaries and the new boundaries of the City with the City Clerk of Rockville, with the Clerk of the Circuit Court for Montgomery County, Maryland, with the Maryland-National Capital Park and Planning Commission, and shall send, or cause to be sent, separately by certified mail, return receipt requested, one copy of this resolution to the Department of Legislative Reference.

* * * * *

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Mayor and Council of Rockville at its meeting of .

Glenda P. Evans, City Clerk

Resolution No. 11-11

RESOLUTION: To provide for public hearing in connection with the annexation of 4.37372 acres of land, more or less, of Reed Brothers, Inc., and Mary J. Gartner, Trustee

WHEREAS, a petition has been presented requesting that two parcels of land of Reed Brothers, Inc. and Mary J. Gartner, Trustee, totaling 4.37372 acres of land, more or less, be annexed by the Mayor and Council, located at the northeast quadrant of the intersection of Maryland Route 355 and the entrance road to the Shady Grove Metro Station and which has a premises address of 15955 Frederick Road, Rockville, Maryland 20855; and

WHEREAS, the signatures for said petition have been verified and it has been ascertained that the persons authorizing said petition are the owners of twenty-five percent (25%) of the assessed valuation of the real property located in the area to be annexed and that there are no residents or registered voters on the property to be annexed; and

WHEREAS, pursuant to the provisions of Section 19(c) of Article 23A of the Annotated Code of Maryland, a resolution has been introduced which, if adopted, would annex the additional property referenced herein, which property is more particularly described in said resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, as follows:

1. That the City Clerk is instructed to cause a public notice of the resolution which has been introduced which, if adopted, would annex property of Reed Brothers, Inc., and Mary Jane Gartner, Trustee, to be published not fewer than two times at not less than weekly intervals in a newspaper of general circulation in the City of Rockville and the area to be annexed, said notice to specify that a public hearing will be held on the resolution in the office of the Mayor and

Resolution No. 11-11

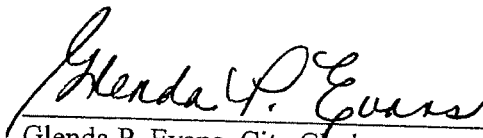
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Council at 7:00 p.m. or as soon thereafter as it may be held, on the 1st day of August, 2011, in the Council Chamber, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland 20850.

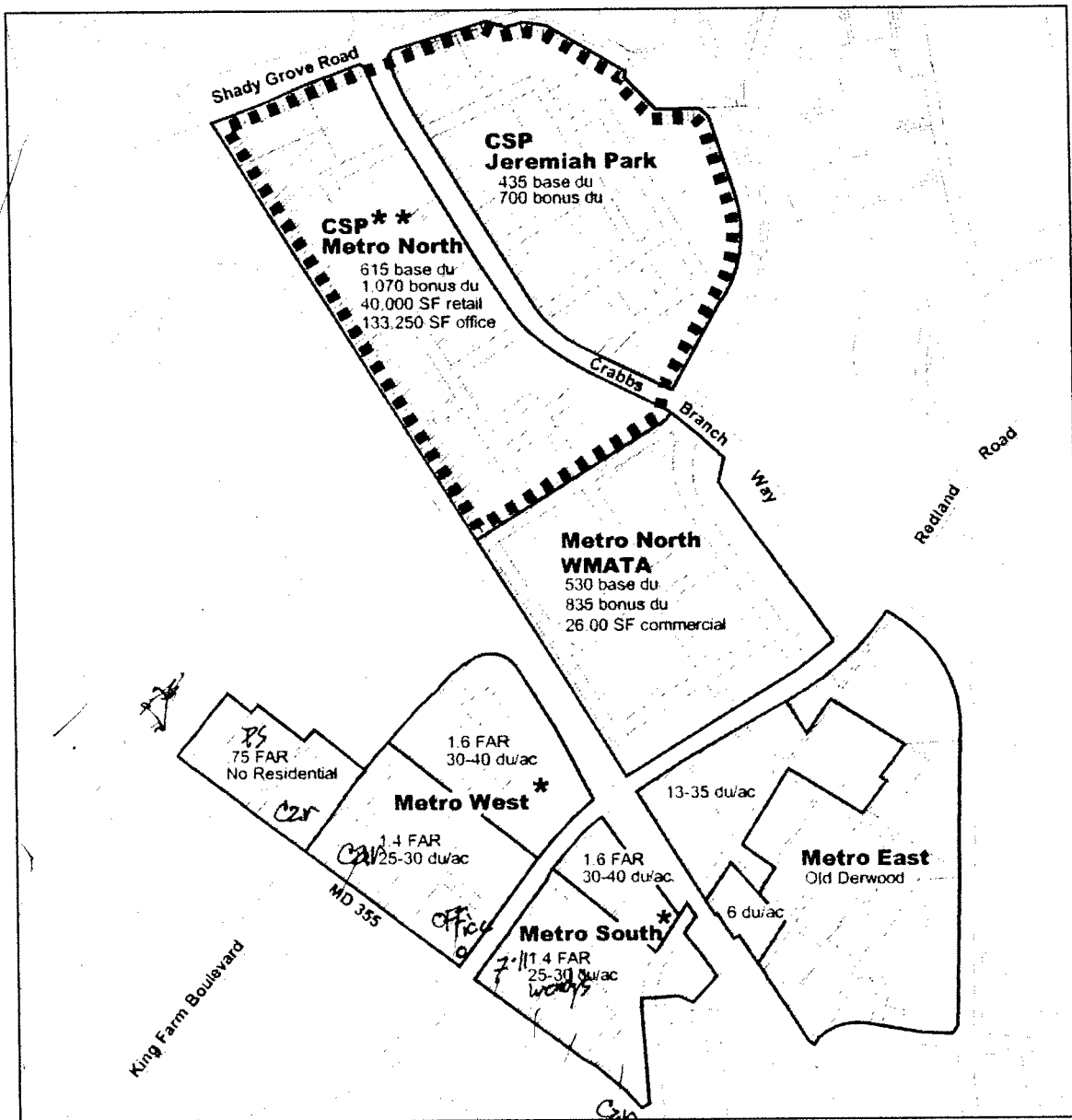
2. That the City Clerk is instructed to provide a copy of the Annexation Plan for the area proposed to be annexed to the County Executive of Montgomery County, Maryland, the Secretary of the State Department of Planning and the Chairman of the Maryland-National Capital Park and Planning Commission at least thirty days prior to the holding of the scheduled public hearing.

3. That immediately upon the first publication of the public notice of said resolution, the City Clerk is instructed to cause said public notice to be provided to the County Executive of Montgomery County, Maryland, Secretary of the State Department of Planning and the Chairman of the Maryland-National Capital Park and Planning Commission.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Mayor and Council at its meeting of May 9, 2011.


Glenda P. Evans, City Clerk

Density Distribution Map



Metro Neighborhoods

- * Plan allows up to 30% maximum commercial FAR and requires a minimum of 70% residential FAR
- ** Metro North may have increased density under joint development provisions with Casey 6 & 7. See Joint Development Properties.

All residential densities may be increased by the provision of MPDU's, TDR's and workforce housing where applicable.

■■■■ County Service Park (CSP)



Not to Scale

6-1

Art. 23A, § 9

CORPORATIONS — MUNICIPAL

not exercise general municipal functions and the term is not to include the Mayor and City Council of Baltimore. Nothing herein contained shall be construed to confer upon any municipal corporation, as herein defined, located within any such tax area or district, the power by incorporation, charter amendment, annexation or otherwise to exercise or perform, divest or duplicate, within its corporate limits any of the special powers or duties theretofore conferred upon the board, commission, authority or public corporation, created or appointed in accordance with law, to administer any such special tax area or district except that, subject to the consent or approval of the board, commission, authority or public corporation having jurisdiction, any municipal corporation may provide within its corporate limits parks, gardens, playgrounds and other recreational facilities, nor shall any provision of this subtitle be construed to empower any municipal corporation as herein defined, by incorporation, charter amendment, annexation, or otherwise, to exclude the area within its corporate limits from the levy of taxes upon property in such area or the imposition therein of special benefit assessments or service charges for the support of any such board, commission, authority or other public corporation. No local law conferring special powers or duties on any such board, commission, authority or public corporation shall be construed to divest any municipal corporation exercising the same powers or performing the same duties within its corporate limits, in accordance with law, of its right to continue the exercise of such powers or the performance of such duties, it being the intent hereof to avoid duplication in the rendition of public services. The General Assembly hereby finds, determines and declares that the term "municipal corporation" in Article XI-E of the Maryland Constitution does not embrace or include any such special tax area or district or the board, commission, authority or public corporation administering the same.

(b) *Certain corporations excepted.* — The term "municipal corporation" does not embrace or include the Washington Suburban Sanitary Commission, or the Washington Suburban Sanitary District under the jurisdiction of such Commission; the term "municipal corporation" does not embrace or include the Maryland-National Capital Park and Planning Commission, or the Maryland-Washington Metropolitan District or the Maryland-Washington Regional District under the jurisdiction of such Commission.

(c) *Limitations on charter amendments; effect of annexation.* — (1) A municipal corporation which is subject to the provisions of Article XI-E of the Maryland Constitution may not amend its charter or exercise its powers of annexation, incorporation or repeal of charter as to affect or impair in any respect the powers relating to sanitation, including sewer, water and similar facilities, and zoning, of the Washington Suburban Sanitary Commission or of the Maryland-National Capital Park and Planning Commission. Except that where any area is annexed to a municipality authorized to have and having then a planning and zoning authority, the municipality shall have exclusive jurisdiction over planning and zoning and subdivision control within the area annexed; provided nothing in this exception shall be construed or interpreted to grant planning and zoning authority or subdivision control to a municipality not authorized to exercise that authority at the time of such annexation; and

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Sup
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term is not to include the herein contained shall be as herein defined, located by incorporation, charter perform, divest or duplicate powers or duties theretofore public corporation, created by such special tax area or approval of the board, commission, any municipal corporation, gardens, playgrounds and one of this subtitle be contained defined, by incorporation to exclude the area within property in such area or the service charges for the other public corporation. any such board, commission to divest any municipal corporation the same duties within it to continue the exercise being the intent hereof to. The General Assembly "municipal corporation" in embrace or include any session, authority or public

"municipal corporation" does sanitary Commission, or the jurisdiction of such Commission embrace or include the mission, or the Maryland-Vashington Regional Dis-

Annexation. — (1) A municipality of Article XI-E of the or exercise its powers of affect or impair in any sewer, water and similar sanitary Commission or of Commission. Except that ized to have and having lity shall have exclusive n control within the area construed or interpreted control to a municipality of such annexation; and

further provided, that no municipality annexing land may for a period of five years following an annexation, permit development of the annexed land for land uses substantially different than the use authorized, or at a substantially higher, not to exceed 50%, density than could be granted for the proposed development, in accordance with the zoning classification of the county applicable at the time of the annexation without the express approval of the board of county commissioners or county council of the county in which the municipality is located.

(2) If the county expressly approves, the municipality, without regard to the provisions of Article 66B, § 4.05(a) of the Code, may place the annexed land in a zoning classification that permits a land use or density different from the land use or density specified in the zoning classification of the county or agency having planning and zoning jurisdiction over the land prior to its annexation applicable at the time of the annexation.

(d) *"Qualified to vote" defined.* — As used in this subtitle, the term "qualified to vote" or "qualified voter" shall mean those persons who under the terms of a municipal charter shall be authorized to vote in elections within that municipal corporation.

(e) *"Municipal charter" defined.* — As used in this subtitle, the term "municipal charter" shall include the existing charter and all local laws of the General Assembly relating to the incorporation, organization, government, or affairs concerning administration and services, of said municipal corporation. (1955, ch. 423; 1957, chs. 40, 197; 1959, ch. 333; 1971, ch. 116; 1972, ch. 33; 1975, ch. 613; 1983, ch. 468; 1984, ch. 255; 1988, ch. 450; 2006, ch. 381.)

Effect of amendments. — Chapter 381, Acts 2006, effective October 1, 2006, rewrote the second proviso in the second sentence of (c)(1) and rewrote (c)(2).

Editor's note. — Section 2, ch. 381, Acts 2006, provides that "the General Assembly encourages a municipal corporation and the county, or counties, in which the municipal corporation is located to enter into a joint planning process to coordinate the development of the municipal growth elements of the comprehensive plans that are required under Article 66B, § 3.05 of the Code, as enacted by Section 1 of this Act."

Section 3, ch. 381, Acts 2006, provides that "the General Assembly encourages regional coordination among the local governments of two or more adjoining counties, two or more municipal corporations, or any combination of adjoining counties and municipal corporations to develop a regional long-term growth policy."

Applicability. — Where plaintiffs challenged the approval of a budget and tax by the board of directors of a special taxing district authority, a quorum of the board consisted of nine members because (1) the authority's bylaws unambiguously fixed a quorum of nine members, (2) the authority had statutory authority to adopt the bylaw, and (3) the authority was not a municipal corporation. *Floyd v. Mayor of Baltimore*, 179 Md. App. 394, 946 A.2d 15 (2008), aff'd, 2009 Md. LEXIS 14 (2009).

Baltimore City police department and officers not municipal corporation or municipal officials. — Baltimore City Police Department is a State agency, not a municipal corporation and its officers are State officials, not municipal officials. *Houghton v. Forrest*, 183 Md. App. 15, 959 A.2d 816 (2008).

Cited in *Mayor of Oakland v. Mayor of Mt. Lake Park*, 392 Md. 301, 896 A.2d 1036 (2006); *Md. Overpak Corp. v. Mayor of Baltimore*, 395 Md. 16, 909 A.2d 235 (2006).

Charter Amendments

§ 14. Initiation by petition.

Supplementation of signature for petition for charter amendment referendum. — Because silence on the issue was construed

as permissive, contrary to the arguments of defendant city council, this section allowed for plaintiff firefighters to supplement the signa-

NOTICE

The City of Rockville Community Planning and Development Services Department wishes to inform you of a public meeting before the Planning Commission concerning an Annexation Application affecting your neighborhood.

Application: Annexation Application, ANX2011-00139

Location: 15955 Frederick Road

Applicant: Silverwood/Shady Grove LLC

19 Isaac Newton Square East, Suite 110, Reston, Virginia 20190

Proposal: The applicant has applied for the annexation of 4.37 acres into the corporate limits of the City of Rockville, and has requested the property be placed in the MXE, Mixed-Use Employment zone pursuant to the City's Zoning Ordinance.

Planning Commission: The Planning Commission will consider this application at a public hearing scheduled for Wednesday, June 8, 2011, at 7:00pm in the Mayor and Council Chambers at City Hall, 111 Maryland Avenue.

For additional information, visit the City of Rockville's Department of Community Planning and Development Services in City Hall or on the web at www.rockvillemd.gov or call Jeremy Hurlbutt, Staff Planner at 240-314-8227. Application files are available for public review Monday thru Friday from 8:30 a.m. to 5 p.m.

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